IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 2683 OF 2007

Vasant Narayan Shirodkar... .... Petitioner.

Versus

Ramesh Vishnu Pai... ..... Respondent.

Mr. B. G. Tangsali for the Petitioner.
Mr. Sudhir Prabhu for the Respondent.

**CORAM : B.H.MARLAPALLE, J.**

**DATED : 20TH APRIL, 2007.**

**P.C.:**

Heard Mr. B. G. Tangsali, learned Counsel for the petitioner and Mr. Sudhir Prabhu, learned Counsel for the respondent.

2. Regular Civil Suit No. 41 of 2000 which was filed for seeking decree of eviction on the ground that the defendant has acquired suitable alternate accommodation, subletting and bonafide requirement came to be allowed by the learned Joint Civil Judge, Junior Division, Sawantwadi. By the judgment and order passed by the learned trial Judge on 25th March, 2003, the suit was decreed and the defendant was

directed to handover vacant and peaceful possession of the suit premises to the plaintiff within one month. Aggrieved by the said judgment and order, the defendant filed Regular Civil Appeal No. 112 of 2003 which came to be dismissed by the learned 1st District udge, Sindhudurg at Oros vide his judgment and order dated 20th November, 2006.

3. In this writ petition the judgment and order passed by the lower appellate court confirming the judgment and order passed by the learned trial Court under the Bombay Rent Act is challenged. In Writ Petition No. 4138 of 2006, I have already taken a view vide order dated 24th August, 2006 that such decree can be challenged by filing a civil revision application under Section 115 of the Code of Civil Procedure. I have further observed that when such a statutory remedy is available, a writ petition under Article 227 of the Constitution of India need not be entertained.

4. Hence, the writ petition is disposed of as such with liberty to the petitioner to file a civil revision application and if such a civil revision application is filed within a period of four weeks from today, the period of pendency of this writ

petition be taken into consideration for condonation of delay, if any.

5. Annexures to the petition memo be returned, if applied for.

6. Writ petition is disposed of, accordingly.

Sd/-

**(B. H. MARLAPALLE, J.)**